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| 09/598,196      | 06/21/2000  | Rajesh Vallabh       | 01-R                | 6787             |

7590 10/15/2003

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| EXAMINER |
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SMITH, JEFFREY A

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| ART UNIT | PAPER NUMBER |
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3625

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/598,196

Applicant(s)

VALLABH, RAJESH

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Drawings***

The drawings were received on 28 July 2003. These drawings are approved.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) in view of in view of Jenkins (U.S. Patent No. 5,186,281) and Matsumori (U.S. Patent No. 6,246,998 B1).

Domain et al. discloses a method of selling groceries (col. 2, lines 54-57) comprising receiving an online order (col. 3, lines 32-36); electronically processing payment information (col. 7, lines 51-56); retrieving grocery products (col. 15,

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line 57-col. 16, line 2); detecting arrival of said customer (col. 17, lines 13-21); selecting one of a plurality of loading areas (col. 15, lines 22-25) based on availability (col. 17, lines 13-35) and directing said customer to said selected areas (col. 15, lines 22-25); moving said grocery products to said selected loading area (col. 19, lines 59-68).

The order is received from the customer while the customer is at a location (i.e. an order station) which is remote from a given pick up location (col. 9, lines 26-35).

Although Domain et al. discloses detecting arrival of said customer a predetermined distance from said given location, Domain et al. does not disclose detecting a generally unique identifier after retrieving said grocery products.

Jenkins, however, in a similar method of selling groceries (see col. 1, lines 5-18; and col. 3, lines 23-42), discloses detecting arrival including a generally unique identifier of a customer a predetermined distance from a given (pick up) location after retrieving grocery products (col. 6, lines 5-33).

It would have been obvious to one of ordinary skill in the art to have provided the method of Domain et al. to have included detecting arrival including a generally unique identifier of a customer a predetermined distance from a given location after retrieving grocery products in order to have

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ensured that the order is properly matched to the orderer (col. 6, lines 22-33). Such modification would have been of particular importance in the method of Domain et al. (see col. 11, line 57-col. 12, line 3) in ensuring that a customer receiving a liquor item at the pick up location was, in fact, the same customer who placed the liquor item order. Such modification would have served as a cross-check and would have better served the legal interests of the Domain et al. providers than the single-check method already provided.

Further, Domain et al. does not disclose maintaining the products in generally the same temperature conditions as the products were kept in storage.

Matsumori discloses, in a similar method (col. 2, line 45-col. 3, line 24), a step of maintaining retrieved grocery products in generally the same temperature conditions as said products were kept in a storage area (col. 8, line 55-col. 9, line 6).

It would have been obvious to one of ordinary skill in the art to have provide the method of Domain et al. to have further included a step of maintaining the retrieved groceries in generally the same temperature conditions as said products were kept in the storage area in order to have maintained various portions of the customer's order in an appropriate environment

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according to their environmental storage requirements (col. 8, line 55-col. 9, line 6).

Regarding claim 2, Domain does not disclose receiving an order at a Web server.

Matsumori, however, discloses a method of Internet based home shopping employing an Internet access to a grocery system server (col. 2, lines 46-58).

It would have been obvious to one of ordinary skill in the art to have provided the method of Domain et al. to have included receiving the order at a web server from a remote client machine (as taught by Matsumori) as such server would have provided enhanced functionality such as merchandise browsing (col. 3, line 65-col. 4, line 13) not otherwise available via the remote telephone ordering already taught by Domain et al. (col. 11, lines 24-27).

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155), Jenkins (U.S. Patent No. 5,186,281), and Matsumori (U.S. Patent No. 6,246,998 B1) as applied to claims 1 and 2 above, and further in view of Hall et al. (U.S. Patent No. 6,026,375).

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The combination of Domain et al., Jenkins and Matsumori does not provide a wireless client machine or an identification device.

Hall et al., in a similar method (col. 1, lines 5-12), discloses a client machine comprising a wireless communications and identification device located in a vehicle (col. 5, lines 48-65).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al., Jenkins, and Matsumori to have included a wireless communications and identification device (of the type disclosed by Hall et al.) in order to have provided enhanced functionality such as mobile order placement and customer arrival detection (Hall et al.: col. 5, lines 8-30) in order to have provided highly expedited services to customers in a mobile environment and to have eliminated or greatly reduced the time the customer spends waiting to receive goods (col. 1, lines 5-21).

Claims 12, 18, 19, 26, 29, 30, 32, 33, 35, 40-45, 48, 49, 51, 53, 54, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) in view of Jenkins (U.S. Patent No. 5,186,281).

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Domain et al. discloses a system and method of selling groceries (col. 2, lines 54-57) comprising receiving an online order (col. 3, lines 32-36); electronically processing payment information (col. 7, lines 51-56); retrieving grocery products (col. 15, line 57-col. 16, line 2); detecting arrival of said customer (col. 17, lines 13-21); selecting one of a plurality of loading areas (col. 15, lines 22-25) based on availability (col. 17, lines 13-35) and directing said customer to said selected areas (col. 15, lines 22-25); moving said grocery products to said selected loading area (col. 19, lines 59-68).

The order is received from the customer while the customer is at a location (e.g. an order station) which is remote from a given pick up location (col. 9, lines 26-35).

Regarding claims 12 and 49, although Domain et al. discloses detecting arrival of said customer a predetermined distance from said given location, Domain et al. does not disclose detecting a generally unique identifier after retrieving said grocery products.

Jenkins, however, in a similar method of selling groceries (see col. 1, lines 5-18; and col. 3, lines 23-42), discloses detecting arrival including a generally unique identifier of a customer a predetermined distance from a given (pick up) location after retrieving grocery products (col. 6, lines 5-33).



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It would have been obvious to one of ordinary skill in the art to have provided the method of Domain et al. to have included detecting arrival including a generally unique identifier of a customer a predetermined distance from a given location after retrieving grocery products in order to have ensured that the order is properly matched to the orderer (col. 6, lines 22-33). Such modification would have been of particular importance in the method of Domain et al. (see col. 11, line 57-col. 12, line 3) in ensuring that a customer receiving a liquor item at the pick up location was, in fact, the same customer who placed the liquor item order. Such modification would have served as a cross-check and would have better served the legal interests of the Domain et al. providers than the single-check method already provided.

Regarding claim 12, Domain does not disclose directing said customer to one of a plurality of loading stations at said given location responsive to detecting the presence of the customer; nor associating said product with said customer and moving said product to said one of a plurality of loading stations for customer pickup responsive to detecting the presence of the customer.

However, Jenkins discloses that the presence of a customer is detected including the detection of a generally unique

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identifier. The customer, after a validating comparison of the generally unique identifier, is permitted to move to a final checkout zone (zone 2) in a vehicle checkout area (38) where the customer's order is then loaded into the vehicle (see col. 6, lines 5-33).

It would have been obvious to one of ordinary skill in the art to have provided the method Domain et al. to have included the steps of directing said customer to one of a plurality of loading stations at said given location responsive to detecting the presence of the customer; and associating said product with said customer and moving said product to said one of a plurality of loading stations for customer pickup responsive to detecting the presence of the customer in order to have ensured that the order is properly matched to the orderer (col. 6, lines 22-33) and to have completed the transaction (col. 6, lines 31-33).

Claims 13-16, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) and Jenkins (U.S. Patent No. 5,186,281), as applied to claims 12 and 49 above, and further in view of Matsumori (U.S. Patent No. 6,246,998 B1).

The combination of Domain et al. and Jenkins does not provide the step of receiving an order at a Web server.

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Matsumori, however, discloses a method of Internet based home shopping employing an Internet access to a grocery system server (col. 2, lines 46-58).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al. and Jenkins to have included receiving the order at a web server from a remote client machine (as taught by Matsumori) as such server would have provided enhanced functionality such as merchandise browsing (col. 3, line 65-col. 4, line 13) not otherwise available via the remote telephone ordering already taught by Domain et al.

Claim 17 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155), Jenkins (U.S. Patent No. 5,186,281), and Matsumori (U.S. Patent No. 6,246,998 B1) as applied to claim 13 above, and further in view of Hall et al. (U.S. Patent No. 6,026,375).

The combination of Domain et al., Jenkins and Matsumori does not provide a wireless client machine and identification device.

Hall et al., in a similar method (col. 1, lines 5-12), discloses a client machine comprising a wireless communications

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and identification device located in a vehicle (col. 5, lines 48-65).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al., Jenkins, and Matsumori to have included a wireless communications and identification device (of the type disclosed by Hall et al.) in order to have provided enhanced functionality such as mobile order placement and customer arrival detection (Hall et al.: col. 5, lines 8-30) in order to have provided highly expedited services to customers in a mobile environment and to have eliminated or greatly reduced the time the customer spends waiting to receive goods (col. 1, lines 5-21).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) and Jenkins (U.S. Patent No. 5,186,281), as applied to claim 19 above, and further in view of Matsumori (U.S. Patent No. 6,246,998 B1).

The combination of Domain et al. and Jenkins does not provide maintaining the products in generally the same temperature conditions as the products were kept in storage.

Matsumori discloses, in a similar method (col. 2, line 45-col. 3, line 24), a step of maintaining retrieved grocery

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products in generally the same temperature conditions as said products were kept in a storage area (col. 8, line 55-col. 9, line 6).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al. and Jenkins to have included a step of maintaining the retrieved groceries in generally the same temperature conditions as said products were kept in the storage area in order to have maintained various portions of the customer's order in an appropriate environment according to their environmental storage requirements (Matsumori: col. 8, line 55-col. 9, line 6).

Claims 21, 27, 28, 31, 34, 36-39, 57, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) and Jenkins (U.S. Patent No. 5,186,281) as applied to claims 12, 26, 30, and 49, above, and further in view of Ruppert et al. (U.S. Patent No. 5,640,002).

Domain et al. does disclose that a vendor will assemble an order and place them in a box or bag carrier and then send the order to a goods compilation area where other orders are compiled for the customer. The compiled order is checked by employees against a list of total ordered items (col. 19, lines

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23-68). Nonetheless, the combination of Domain et al. and Jenkins does not provide placing said products in a container having an identification tag.

Ruppert et al. discloses, in a similar method (col. 40, lines 47-67), discloses tagging a bag to identify the contents (col. 41, lines 26-30).

It would have been obvious to one of ordinary skill in the art to have provided the combination of Domain et al. and Jenkins to have included the step of placing the products in a container having an identification tag and associating the tag to the order (as taught by Ruppert et al.) so that the various boxed or bagged orders of Domain et al. could have been readily identified for compilation into a total purchased order (such as already disclosed by Domain et al.).

Although the combination does not provide that the container comprises an electronic display, to have modified the Ruppert et al. tag already taught to have included an electronic display would have been obvious to one of ordinary skill in the art in order to have provided a visually discernable readout such that employees compiling the orders into a total order could have readily identified the particular containers.

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The combination of Domain et al. and Jenkins does not provide receiving an input on a keypad identifying a customer or receiving an input using a machine reader to read a card.

Ruppert et al, however, discloses that a customer types a PIN number into a special PIN terminal in the customer pickup area (col. 40, lines 55-58).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al. and Jenkins to have included the step of receiving an input on a keypad identifying a customer such that the customer may be authenticated and the pickup clerk may release the order to the proper customer (col. 40, lines 55-67).

Further, although Ruppert et al. does not disclose a card reader for the above purpose, Ruppert et al. does teach that a customer is issued a magnetic stripe card when invited to join their program (col. 38, line 53-col. 39, line 5).

It would have been obvious to have employed a magnetic card reader to have read the program issued customer card in lieu of receiving PIN number input from the customer (as previously discussed) as such machine reader input mechanism would have amounted to the mere substitution of an equivalent input means for the purpose of authenticating the customer upon pickup of the purchased order.

The combination of Domain et al. and Jenkins does not disclose detecting whether the customer is attempting to leave with a container.

Ruppert et al. discloses that their method includes detecting whether a customer is attempting to leave a given location with a container, and if so, alerting the customer to return said container (col. 38, lines 23-44).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al. and Jenkins to have included the step of detecting whether a customer is attempting to leave a given location with a container, and if so, alerting the customer to return said container (as taught by Ruppert et al.) in order to have prevented unauthorized removal of the container.

The combination of Domain et al. and Jenkins does not provided registering the customer.

Ruppert et al., however, discloses that their system includes a customer program which customers may join (col. 39, lines 2-5). Background checks are conducted (col. 38, line 66-col. 2) and the customer is issued a customer ID (col. 39, lines 6-9). Buyer profile is established (col. 39, lines 50-57).

It would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al. and



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Jenkins to have included the steps of registering the customer, receiving customer username and password information, receiving contact information, and receiving buyer profile information in order to have assembled such information in a program database such that customer transactions could have been greatly expedited (col. 39, lines 55-56).

Claims 46, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) and Jenkins (U.S. Patent No. 5,186,281), as applied to claim 12, and further in view of Hall et al. (U.S. Patent No. 6,026,375).

The combination of Domain et al. and Jenkins does not provide receiving customer information on what time the customer wishes to pick up the product.

Hall et al., however, discloses that their method comprises a step of receiving from the customer information on approximately what time the customer wishes to pick up the product (col. 9, lines 43-46).

It would have been obvious to one of ordinary skill in the art to have provided the combination of Domain et al. and Jenkins to have included the step of receiving from the customer information on approximately what time the customer wishes to

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pick up the product (as taught by Hall et al.) in order to have satisfactorily satisfied the customer's needed time frame for the ordered products (col. 9, lines 43-46).

The combination of Domain et al. and Jenkins does not provide an identification device.

Hall et al., however, discloses a client machine comprising an identification device located in a vehicle (col. 5, lines 48-65).

It would have been obvious to one of ordinary skill in the art to have provided the combination of Domain et al. and Jenkins to have included an identification device (of the type disclosed by Hall et al.) in order to have provided enhanced functionality such as customer arrival detection (Hall et al.: col. 5, lines 8-30) in order to have provided highly expedited services to customers in a mobile environment and to have eliminated or greatly reduced the time the customer spends waiting to receive goods (col. 1, lines 5-21).

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155), Jenkins (U.S. Patent No. 5,186,281), and Hall et al. (U.S. Patent No. 6,026,375), as applied to claim 46 above, and further in view of Official Notice.

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The combined method of Domain et al. and Hall et al. does not provide the step of charging the customer a fee based on when the customer wishes to pick up the ordered product.

However, Official Notice is taken that it is notoriously well-known for businesses to provide "rush service" for orders required in short time. For example, many known couriers establish rates based on the immediacy of the service desired. Rates routinely are established which charge the customer a premium fee for "rush service" versus "normal service". Such rates reflect the urgency that the courier must treat the service in dedicating resources and manpower to the desired task.

Accordingly, it would have been obvious to one of ordinary skill in the art to have provided the combined method of Domain et al., Jenkins, and Hall et al to have included the step of charging the customer a fee based on when the customer wishes to pick up the order product in order to have received appropriate compensation for the level of service desired by the customer.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domain et al. (U.S. Patent No. 5,158,155) and Jenkins (U.S. Patent No. 5,186,281), as applied to claim 49

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above, and further in view of Matsumori (U.S. Patent No. 6,246,998 B1).

The combination of Domain et al. and Jenkins does not provide a storage area comprising an area for storing refrigerated goods, an area for storing frozen goods, and an area for storing goods at room temperature.

Matsumori discloses, in a similar system (col. 2, line 45-col. 3, line 24), maintaining retrieved grocery products in generally the same temperature conditions as said products were kept in a storage area (col. 8, line 55-col. 9, line 6).

It would have been obvious to one of ordinary skill in the art to have provided the combined system of Domain et al. and Jenkins to have included respective storage areas for storing the retrieved groceries in generally the same temperature conditions as said products were kept in the storage area in order to have maintained various portions of the customer's order in an appropriate environment according to their environmental storage requirements (Matsumori: col. 8, line 55-col. 9, line 6).

***Response to Arguments***

Applicant's arguments filed 28 July 2003 have been fully considered but they are not persuasive.

Applicant remarks that Domain et al. does not disclose "receiving an online order from a customer".

The Examiner interprets Domain et al. as receiving an online order since the customer's order is placed through a primary computer via a microprocessor terminal (see col. 15, lines 20-32, for example). As such, a customer order is received by a vendor "online". Additionally, Domain et al. discloses that orders which have been submitted by telephone or facsimile may be picked up by customers of the Vendor Complex (col. 11, lines 24-27). This variation is another form of receiving an online order from a customer.

Applicant remarks that "Domain does not disclose or suggest dynamically selecting one of a plurality of loading areas".

Domain et al. discloses that "magnetic sensors (not shown) at the [pick-up station] location will indicate to the order clerk in charge of routing vehicles to that location that the particular location is occupied by a vehicle and is closed"

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(col. 17, lines 13-17). In this manner Domain et al. discloses dynamic selection of pickup stations. The Domain et al. system identifies closed and open stations. The open stations being selected as available for delivery of goods to a subsequent customer (col. 17, lines 30-35).

Other remarks advanced by Applicant have been addressed in the bodies of the rejections above.

The Examiner notes that Applicant has not traversed the Examiner's assertion of Official Notice (repeated above). Accordingly, such noticed assertion is taken to be admitted prior art because Applicant failed to traverse such assertion. MPEP 2144.03(C).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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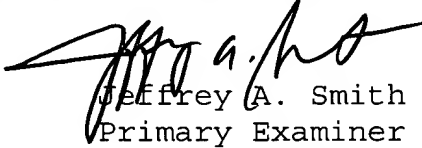
action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Jeffrey A. Smith  
Primary Examiner  
Art Unit 3625

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